

## Broadcasting Board of Governors

## § 505.10

the Board shall incorporate the criteria of accuracy, relevance, timeliness, and completeness of the record in the review.

(b) If the Board agrees with an individual's request to amend a record, it shall:

(1) Advise the individual in writing;

(2) Correct the record accordingly;

(3) And, to the extent that an accounting of disclosure was maintained, advise all previous recipients of the record of the corrections.

(c) If the Board disagrees with all or any portion of an individual's request to amend a record, it shall:

(1) Advise the individual of the reasons for the determination;

(2) Inform the individual of her/his right to further review (see § 505.9).

### § 505.9 Review of adverse Board determination.

(a) When the Board determines to deny a request to amend a record, or portion of the record, the individual may request further review by the Board's Access Appeal Committee. The written request for review should be mailed to the Chairperson, Access Appeal Committee, Broadcasting Board of Governors, Office of Public Liaison, 301 4th Street, SW, Washington, DC 20547. The letter should include any documentation, information or statement which substantiates the request for review.

(b) The Board's Access Appeal Committee will review the Board's initial denial to amend the record and the individual's documentation supporting amendment, within 30 working days. If additional time is required, the individual will be notified in writing of the reasons for the delay and the approximate date when the review is expected to be completed. Upon completion of the review, the Chairperson will notify the individual of the results.

(c) If the Committee upholds the Board's denial to amend the record, the Chairperson will advise the individual of:

(1) The reasons for the Board's refusal to amend the record;

(2) Her/his right and the procedure to add to the file a concise statement supporting the individual's disagreement with the decision of the Board;

(3) Her/his right to seek judicial review of the Board's refusal to amend the file.

(d) When an individual files a statement disagreeing with the Board's refusal to amend a record, the Board will clearly annotate the record so that the fact that the record is disputed is apparent to anyone who may subsequently have access to, use of, or reason to disclose the file. If information is disclosed regarding the area of dispute, the Board will provide a copy of the individual's statement in the disclosure. Any statement which may be included by the Board regarding the dispute will be limited to the reasons given to the individual for not amending the record. Copies of the Board's statement shall be treated as part of the individual's record, but will not be subject to amendment by the individual under these regulations.

### § 505.10 Disclosure to third parties.

The Board will not disclose any information about an individual to any person or another agency without the prior consent of the individual about whom the information is maintained, except as provided for in the following paragraphs.

(a) *Medical records.* May be disclosed to a doctor or other medical practitioner, named by the individual, as prescribed in § 505.6 above.

(b) *Accompanying individual.* When a requester is accompanied by any other person, the Board will require that the requester sign a statement granting consent to the disclosure of the contents of the record to that person.

(c) *Designees.* If a person requests another person's file, she or he must present a signed statement from that person of record which authorizes and consents to the release of the file to the designated individual.

(d) *Guardians.* Parent(s) or legal guardian(s) of dependent minors or of an individual who has been declared by a court to be incompetent due to physical, mental or age incapacity, may act for and on behalf of the individual on whom the Board maintains records.

(e) *Other disclosures.* A record may be disclosed without a request by or written consent of the individual to whom the record pertains if such disclosure

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conditions are authorized under the provisions of 5 U.S.C. 552a(b). These conditions are:

(1) *Disclosure within the Board.* This condition is based upon a “need-to-know” concept which recognizes that Board personnel may require access to discharge their duties.

(2) *Disclosure to the public.* No consent by an individual is necessary if the record is required to be released under the Freedom of Information Act (FOIA), 5 U.S.C. 552. The record may be exempt, however, under one of the nine exemptions of the FOIA.

(3) *Disclosure for a routine use.* No consent by an individual is necessary if the condition is necessary for a “routine use” as defined in § 505.2(g). Information may also be released to other government agencies which have statutory or other lawful authority to maintain such information. (See Appendix I—Prefatory Statement of General Routine Uses).

(4) *Disclosure to the Bureau of the Census.* For purposes of planning or carrying out a census or survey or related activity. Title 13 U.S.C. Section 8 limits the uses which may be made of these records and also makes them immune from compulsory disclosure.

(5) *Disclosure for statistical research and reporting.* The Board will provide the statistical information requested only after all names and personal identifiers have been deleted from the records.

(6) *Disclosure to the National Archives.* For the preservation of records of historical value, pursuant to 44 U.S.C. 2103.

(7) *Disclosure for law enforcement purposes.* Upon receipt of a written request by another Federal agency or a state or local government describing the law enforcement purpose for which a record is required, and specifying the particular record. Blanket requests for all records pertaining to an individual are not permitted under the Privacy Act.

(8) *Disclosure under emergency circumstances.* For the safety or health of an individual (e.g., medical records on a patient undergoing emergency treatment).

(9) *Disclosure to the Congress.* For matters within the jurisdiction of any House or Senate committee or sub-

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committee, and/or joint committee or subcommittee, pursuant to a written request from the Chairman of the committee or subcommittee.

(10) *Disclosure to the General Accounting Office (GAO).* For matters within the jurisdiction of the duties of the GAO’s Comptroller General.

(11) *Disclosure pursuant to court order.* Pursuant to the order of a court of competent jurisdiction. This does not include a subpoena for records requested by counsel and issued by a clerk of court.

### § 505.11 Fees.

(a) The first copy of any Board record about an individual will be provided free of charge. A fee of \$0.15 per page will be charged for any additional copies requested by the individual.

(b) Checks or money orders should be made payable to the United States Treasurer and mailed to the Freedom of Information Act/Privacy Act Unit, Office of the General Counsel, 301 4th Street, SW, Washington, DC 20547. The Board will not accept cash.

### § 505.12 Civil remedies and criminal penalties.

(a) *Grounds for court action.* An individual will have a remedy in the Federal District Courts under the following circumstances:

(1) *Denial of access.* Individuals may challenge an Board decision to deny them access to records to which they consider themselves entitled.

(2) *Refusal to amend a record.* Under conditions prescribed in 5 U.S.C. 552a(g), an individual may seek judicial review of the Board’s refusal to amend a record.

(3) *Failure to maintain a record accurately.* An individual may bring suit against the Board for any alleged intentional and willful failure to maintain a record accurately, if it can be shown that the individual was subjected to an adverse action resulting in the denial of a right, benefit, entitlement or employment the individual could reasonably have expected to be granted if the record had not been deficient.

(4) *Other failures to comply with the Act.* An individual may bring an action for any alleged failure by the Board to